

COMMONWEALTH OF VIRGINIA

SENATOR MAMIE LOCKE, Chair
DELEGATE DANIEL MARSHALL, III, Vice-chair
ELIZABETH A. PALEN, Executive Director



GENERAL ASSEMBLY BUILDING
201 NORTH 9th STREET, SECOND FLOOR
RICHMOND, VIRGINIA 23219
(PHONE) 804-786-3591 ext. 259
(FAX) 804-371-0169
epalen@dls.virginia.gov
<http://dls.virginia.gov/commissions/vhc.htm>

VIRGINIA HOUSING COMMISSION

SUMMARY

Virginia Housing Commission

Neighborhood Transitions and Residential Land Use Workgroup

December 9, 2015, 10:00 AM

Senate Room A, General Assembly Building

I. Call to Order

Senator Mamie Locke, *Chair*, called the meeting to order at 10:00 AM.

Members in attendance: Senator Mamie E. Locke, *Chair*; Delegate David Bulova; Delegate Betsy Carr; Delegate Danny Marshall; Mark K. Flynn, *Governor Appointee*; T.K. Somanath, *Governor Appointee*; Laura D. Lafayette, *Governor Appointee*; Neal J. Barber, *Community Futures*; Bernard Caton, *Legislative Director, City of Alexandria*; Tyler Craddock, *Manufactured & Modular Housing Association*; Cindy Davis, *Building Codes, Department of Housing and Community Development*; Chip Dick, *Virginia Association of Realtors*; Chris Freund, *Family Foundation of Virginia*; Brian Gordon, *Apartment and Office Building Association*; Kelly Harris-Braxton, *Virginia First Cities*; John H. Jordan, *Manufactured Housing Communities*; Barry Merchant, *Virginia Housing Development Authority*; Elizabeth Rafferty, *Department of Housing and Community Development*; Earl Reynolds, *Community Development Director, City of Danville*; Michael Toalson, *Home Builders Association of Virginia*; Cal Whitehead, *Whitehead Consulting*.

Staff: Elizabeth Palen, *Executive Director of VHC*

** Note this meeting has members of both the Housing and the Environmental Law and Neighborhood Transitions and Residential Land Use Workgroups as the topics were covered by both groups*

II. Shared Walls with Insect Infestation (Senator Adam Ebbin)

- **Bernard Caton**, *Legislative Director, City of Alexandria*: We have a resident who bought a townhouse, which is not part of a homeowners' association. Once he moved in he has had an issue with cockroaches and bedbugs. We have had exterminators come to deal with the issue regularly, and they now believe the issue comes from the adjacent townhome, who are renters. We don't know any way we can deal with this.
 - Amigo Wade has drafted a bill, which authorizes a building inspector to get an inspection if a complaint is issued. It directs the Board of Housing and Community Development to amend the section of the statewide building

DELEGATE DANIEL W. MARSHALL, III
DELEGATE DAVID L. BULOVA
DELEGATE ROSALYN R. DANCE
DELEGATE BARRY D. KNIGHT
DELEGATE CHRISTOPHER K. PEACE

SENATOR MAMIE E. LOCKE
SENATOR JOHN C. WATKINS
SENATOR GEORGE L. BARKER

MARK K. FLYNN
LAURA D. LAFAYETTE
T.K. SOMANATH

code to require all structures to be kept free from infestation and require those with a problem to promptly deal with it.

- **Locke:** So this would become a statewide policy?
 - **Caton:** Correct.
- **Michael Toalson, *Home Builders Association of Virginia*:** Who has determined it's insects from an adjoining home?
 - **Caton:** No one can go into the home where the problem seems to be coming from, but the neighbors all seem to believe that is where the issue is from.
- **Toalson:** Do you know if it's built on a slab or is there a crawl space?
 - **Caton:** I believe all these houses have basements, but I'm not positive. The inspector said it was unusual, but in these older homes there are cracks where insects can get from one home to another.
- **Ron Clement, *Assistant Director, Chesterfield County: Building Inspector*:** Have you explored avenues through the state health department?
 - **Caton:** We did, and they don't believe they have any authority.
- **Chip Dicks, *Virginia Association of Realtors*:** Concerning the enactment clause, perhaps it would be better perceived if it were permissive. I believe the building code work group should look at the issue.
 - **Caton:** Senator Ebbin would be open to this.
- **Toalson:** This is the year the Board for Housing and Community Development will begin consideration to changes of code. It would be timely to have this matter referred to them.
- **Cindy Davis, *Deputy Director, Building Codes, Department of Housing and Community Development*:** The Department of Housing and Community Development is indeed in the process of updating from one code edition to the next. Related to this legislation, the current amendment in the infestation section to be removed is based on the definition of building regulation, which is currently in the statute. It is specific to the extent it affects the structure.
- **Clement:** Has this type of issue ever occurred in your experience?
 - **Davis:** No, not until now.
 - **Caton:** The issue is how to establish an infestation.
- **Locke:** How prevalent is this issue statewide?
 - **Davis:** This is the first time I have heard of it.
- **Dicks:** Does the health department or the Department of Agriculture deal with pests?
 - **Davis:** I am not familiar with the agriculture department, but the health department does have a section that deals with infestation of bedbugs, etc. They suggest you consult a professional, but are not regulated by them.

- **Dicks:** In the Virginia Residential Landlord Tenant Act, there is a provision requiring the tenant maintain the dwelling free of pests and insects. That may be a place to look for a solution.
- **Locke:** Are we ready to push this forward to the full commission?
- **There was a consensus to keep the issue within the work group.**

III. Stalking; Early Termination of Rental Agreements (HB 1902; Lopez; 2015)

- **Christy Marra, Virginia Poverty Law Center:** There were issues raised in a stakeholder meeting that providing the same protection for stalking victims as for domestic abuse may go too far for stalking victims, but the new legislation is confusing. We determined at this time to recommend you not go forward with this legislation.
- **Chip Dicks, Virginia Association of Realtors:** I concur and suggest no legislation go forward.
- **The work group decided to pass through no legislation.**

IV. Asbestos (SB 299; Asbestos, Lead and Home Inspectors; Ebbin; 2014)

- **Charles Jackson (on behalf of Senator Ebbin):** In this legislation, when workers file for their license they will also receive a packet describing their rights and how to file a complaint.
- **Elizabeth Palen, Executive Director, VHC:** I would like everyone to note this is a Section 1 bill.
- **Dicks:** The language doesn't deal with the size of the signs. Has there been consensus on that?
 - **Jackson:** The legislation in front of you does not include an additional sign. The workers do not usually view the signs on site; they are to warn the public of asbestos work sites, so we took that out of the legislation. We do have a second version that includes the sign, but we are supporting this first version.
- **Toalson:** Are these motions part of training?
 - **Jackson:** I defer to DPOR [the Department of Professional and Occupational Regulation].
 - **Trisha Henshaw, Executive Director, Board for Asbestos, Lead, and Home Inspectors:** There are specific things that need to be covered in workers' training.
- **Toalson:** Is where you go to file a complaint part of training?
 - **Henshaw:** No, that specific item is not required in training.
- **It was moved and seconded that the work group recommend the legislation to the full committee.**
- **Motion passed.**

V. FY 2015 Cash Proffer Report

- **J. David Conmy**, *Senior Policy Analyst, Virginia Department of Housing and Community Development*: (Presentation, which is available under the Materials section on the VHC website.)
- **Senator George Barker**: If you have the right to accept proffers because you achieve five percent growth in a decade, do you lose that right if you do not see that growth in that time period?
 - **Conmy**: My understanding is no, but I will confirm that.
- **Barker**: In recent years revenues were much higher than expenditures, is there an explanation for that change?
 - **Conmy**: I do not have a specific cause.
- **Toalson**: I appreciate the report and the fact that most localities are adhering to the requirements. Sooner or later there will be a change in this act that will allow the development sector to fully recover. I believe the proffer system is out of control.
- **Barker**: I think we need more information on revenues collected that have not been spent. If developers are putting money into the proffer for a thing that is never done, we need to look into this issue.
- **Toalson**: Do you have information on the distribution among the localities? Are the majority of revenues collected from select localities and where are they?
 - **Conmy**: I do have some additional information in our report.
 - **Toalson**: For the most part it's in Loudoun County, with some in Fairfax.
- **Laura Lafayette**, *Governor Appointee*: I agree with Mr. Toalson. This issue burdens housing costs and affordable housing.
- **Toalson**: We feel the current proffer situation supports the higher end of the housing market. The starter home market is struggling.
- **Mark Flynn**, *Governor Appointee*: I think it's interesting that 26 of the 36 cities don't use cash proffers. Sixty-two or the 80-some counties don't use proffers. Regarding having a cash proffer schedule, larger developers like the predictability associated with it. We have previously tried to address the length of time proffers could be held onto. Promoters are supporting a shift to impact fees.

VI. Portsmouth Flooding

- **Barry Merchant**, *Virginia Housing Development Authority*: We discussed the need for more educational opportunities for the first-time homebuyer with regard to flooding. When the curriculum gets updated this year, that will be included.
 - This will include: an emphasis on flooding in coastal areas being a significant risk, the need for buyers to find out whether flood insurance is necessary and whether their home is in a flood hazard area, and how to access up-to-date flood hazard information.

VII. Richmond Redevelopment and Housing Authority (RRHA); East End Initiative

- **Lane Pearson, (RRHA):** We are hoping to revitalize some low-income public housing complexes we own. In the past there was the Hope 6 program, which revitalized communities. We no longer have access to these big piles of money, however.
 - HUD [the U.S. Department of Housing and Urban Development] has come up with the Choice Neighborhoods Initiative. This allows fewer numbers of housing authorities to receive rather sizeable amounts of money to be used to leverage other funds to revitalize low-income public housing. This is a competitive process.
 - How do we move forward? One new tool is called the Rental Assistance Demonstration Program, which allows housing authorities to convert their public housing units into project-based voucher units. Again, this is very competitive.
- **Marcia Davis, (RRHA):** We committed to Creighton Court as the first complex. We used some early RAD allocation and did a one-to-one replacement and a few units. We look for housing placement offsite, and are in the process of rebuilding an old school building.
 - We have elected to do a public-private partnership with our nonprofit, Community Builders. The first phase we got funded with our partners is the Armstrong site. A third will be replacement units, a third will be workforce housing, and a third will be market rate. The city of Richmond provided the gap funding to help make this work.
 - The next part of the Armstrong site is a 45-unit complex dedicated to seniors. This is hopefully a leg up on the competition, having a plan set.
 - The overall goal is continuing down this corridor and addressing other projects in the long term.
- **Pearson:** This is a high priority statewide. We've been working closely with the state to determine which housing communities should be targeted.

VIII. Public Comment

- **Roger Wiley, Loudoun County:** When proffers came before the Housing Commission previously, Loudoun came down to show we have a well-thought-out capital improvements program. I think that would alleviate many of your concerns. Loudoun has seen growth and development even during the recession, especially when dealing with school-age children. I request to have the folks come back from Loudoun County, so they can assure you they're not just hoarding this money.

IX. Adjourn

- Upon hearing no further comment, **Senator Locke** adjourned the meeting at 11:30 AM.